



**Periodic Review / Retain Regulation  
Agency Background Document**

<b>Agency name</b>	Virginia Department of Labor and Industry
<b>Virginia Administrative Code (VAC) citation</b>	16 VAC 25-55
<b>Regulation title</b>	Financial Requirements for Boiler and Pressure Vessel Contract Fee Inspectors
<b>Document preparation date</b>	October 13, 2011

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

**Legal basis**

*Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.*

The Safety and Health Codes Board is authorized by Title 40.1-51.9:2 C of the *Code of Virginia* to, "...promulgate regulations requiring contract fee inspectors, as a condition of their doing business in the Commonwealth, to demonstrate financial responsibility sufficient to comply with the requirements of this chapter. Regulations governing the amount of any financial responsibility required by the contract fee inspector shall take into consideration the type, capacity and number of boilers or pressure vessels inspected or certified."

**Alternatives**

*Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.*

This regulation ensures a minimum level of indemnification in cases involving bodily injury and property damage resulting from, or directly relating to, a contract fee inspector's negligent inspection or recommendation for certification of a boiler or pressure vessel. The required insurance indemnifies contract fee inspectors from potential lawsuits to the level of their coverage, and the

financial responsibility gives contract fee inspectors a vested interest in the performance of the inspections they conduct.

This regulation includes alternative instruments other than insurance. It sets minimum aggregate limits for insurance coverage or other means provided for in the Code of Virginia. The minimum of \$500,000 offers flexibility for small businesses with less potential exposure to risk.

Thus, for the reasons noted above, there are no other viable alternatives for achieving the purpose of this regulation.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Keith Johnson	[sic] thanks for taking to time to discuss this, I feel strongly about it. If possible, as you gain expertise would you mind updating your site with more info about boiler and pressure vessel? [sic] as it is extremely helpful to me.	The commenter was a nonregistered public user who posted his comment on the Regulatory Town Hall website. The Agency was not able to respond to him because he did not provide contact information.

The agency did not establish an informal advisory group for the purpose of assisting in the periodic review.

**Effectiveness**

*Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

The regulation is necessary for the protection of public health, safety, and welfare.

The regulation is clearly written and easily understandable.

**Result**

*Please state that the agency is recommending that the regulation should stay in effect without change.*

The agency recommends that the regulation remain in effect without change.

**Small business impact**

*In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency’s determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.*

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In its review of this regulation, the agency has determined that there is a continued need for the regulation because it ensures a minimum level of indemnification in cases involving bodily injury and property damage resulting from, or directly relating to, a contract fee inspector’s negligent inspection or recommendation for certification of a boiler or pressure vessel. The regulatory language is clear and avoids complexity. This regulation, which became effective in 2007, does not overlap, duplicate, or conflict with federal or state law or regulation. The current review is the first periodic review to evaluate the regulation. There have not been significant changes in technology, economic conditions, or other factors in the area affected by the regulation since it became effective. The agency has determined that retaining the regulation without amendment is consistent with the stated objectives of applicable law and is the most effective way to minimize the economic impact of regulations on small businesses.

**Family impact**

*Please provide an analysis of the regulation’s impact on the institution of the family and family stability.*

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This regulation should have a minimal impact on the institution of the family and family stability.